

BOARD OF EQUALIZATION

TRANSACTIONS (SALES) AND USE TAX REGULATIONS

Regulation 1827. COLLECTION OF USE TAX BY RETAILERS.

Reference: Section 7262 and 7051.3, Revenue and Taxation Code.

(a) IN GENERAL. Except as provided in subdivision (d) below, any retailer engaged in business in a district imposing transactions (sales) and use taxes and making sales of tangible personal property, the storage, use or other consumption of which is subject to the state-administered district use tax imposed by that district is required to register with the Board, collect the use tax from the purchaser, give receipts therefor, and pay the tax to the Board. Retailers to whom seller's permits have been or are issued under Section 6067 of the Revenue and Taxation Code and who are engaged in business in the district are registered to collect the district use tax.

Any retailer who is not engaged in business in the district imposing transactions (sales) and use taxes may apply for a Certificate of Registration — Use Tax. Holders of such certificates are required to collect tax from purchasers, give receipts therefor, and pay tax to the Board in the same manner as retailers engaged in business in the district.

(b) WHEN COLLECTION OF USE TAX IS REQUIRED.

(1) **DELIVERIES INTO THE DISTRICT.** A Retailer engaged in business in the district (except retailers of certain vehicles, aircraft and vessels as described in paragraph (c)(4) below) shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer.

(2) **PRESUMPTION OF USE — OUT OF DISTRICT DELIVERIES.** It shall be presumed that tangible personal property (except for certain vehicles, aircraft and vessels described in paragraph (c)(4) below) delivered outside a district imposing transactions (sales) and use taxes to a purchaser known by the retailer to be a resident of a district imposing such taxes was purchased from a retailer for storage, use or other consumption in the district in which the purchaser resides and was stored, used or otherwise consumed in that district. If the retailer is engaged in business in that district and participates within the district in making the sale of the property, he shall collect the district use tax and pay it to the Board.

The presumption may be controverted and the retailer relieved of the duty of collecting the use tax if the retailer, in good faith, accepts from the purchaser a statement in writing that the property was purchased for use at a designated point or points outside a district imposing a use tax. The presumption may also be controverted by other evidence satisfactory to the Board that the property was not purchased for storage, use or other consumption in a district imposing a use tax.

(3) **VEHICLES, AIRCRAFT AND UNDOCUMENTED VESSELS.** Retailers of vehicles, aircraft or undocumented vessels described in paragraph (c)(4) below are engaged in business in any district imposing a state-administered transactions use tax and are required to collect the use tax from the purchaser and pay it to the Board when such vehicles, aircraft or undocumented vessels are registered or licensed in that district.

(c) DEFINITION — “RETAILER ENGAGED IN BUSINESS IN DISTRICT.” “Retailer engaged in business in the district” includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business in the district.

(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in the district under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

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(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in the district.

(4) On and after January 1, 1988, any retailer of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.

(d) SALES TO PERSONS HOLDING USE TAX DIRECT PAYMENT PERMITS. Retailers selling tangible personal property, the storage, use or other consumption of which is subject to the use tax, who take in good faith use tax direct payment exemption certificates from persons holding use tax direct payment permits shall be relieved from the duty of collecting direct use tax. Use tax direct payment permits and exemption certificates must comply with the requirements of Regulation 1699.6. This subdivision applies only to transfers that are subject to state and local use tax.

History: Adopted January 6, 1970, effective February 25, 1970.

Amended March 9, 1970, effective March 10, 1970.

Amended March 30, 1988, effective June 16, 1988. Amended subdivisions (b) and (c) to require retailers to collect the transactions use tax from purchasers of certain vessels, aircraft and undocumented vessels when they are registered or licensed in a district which imposes a transactions (sales) and use tax pursuant to AB 2446 (Chapter 308, Statutes of 1987).

Amended April 5, 1989, effective June 21, 1989. Corrects a minor error in the California Code of Regulations by replacing the word "a" with the word "any" in subdivision (b)(3). Deletes references to repealed sections of the Harbors and Navigation Code with appropriate Vehicle Code references. Also in subdivision (b)(3), explains that when an undocumented vessel is registered in a district imposing a transactions use tax, the retailer of the vessel is considered engaged in business in that district and is required to collect the use tax.

Amended September 1, 1999, effective October 22, 1999. Added cross reference to new subdivision (d) in subdivision (a). New subdivision (d) added for provisions of Revenue and Taxation Code section 7051.3 (Statutes of 1997, Chapter 702 (SB 110)) concerning sales made to persons holding use tax direct payment permits.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.